IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 181 OF 2004

Prashant Appasaheb Khilare and another ...Petitioners

Versus

State of Maharashtra and 4 others ... Respondents

Mr. G.S. Godbole for the petitioners.
Mr. V.P. Malwankar, Assistant Government Pleader, for respondent Nos.1 and 2.
Mr. Narendra V. Walawalkar for respondent Nos. 3 to 5.

CORAM: **H.L. GOKHALE, Ag. C.J.,** & **V.M. KANADE, J.**

DATE: **MARCH 01, 2007**.

P.C.

Heard Mr. Godbole in support of this petition. Mr. Malwankar, Assistant Government Pleader, appears for respondent Nos.1 and 2. Mr. Walawalkar appears for respondent Nos. 3 to 5.

2. Petitioner No.1 is a Councillor of the Municipal Corporation of Sangli, Miraj and Kupwad. Petitioner No.2 was the erstwhile Councillor of Sangli Municipal Council. The petition highlights large scale illegalities and irregularities in the matter of municipal funds and its

utilisation. The amounts involved are in the range of Rs. 1.58 lakhs. An audit enquiry was conducted into the concerned allegations between 19th November, 2001 and 31st December, 200, and the Chief Auditor is reported to have made a report on 9th June, 2003. Submission of the petitioner is that ultimately the procedure under the Bombay Local Fund Audit Act, 1930 (hereinafter "the Act") will have to be followed.

3. Mr. Malwankar, learned Assistant Government Pleader, points out that a certain procedure is prescribed under the Act after the report of the Chief Auditor is received, the local authorities are supposed to remedy the defects in the matter prescribed under Section 10 of the said Act. Section 10 (3) of the Act speaks of the report of the Chief Auditor. The report having been received, it is the submission of Mr. Malwankar that it should be placed before the Standing Committee of the Municipal Corporation so that it reacts on the report. There is undoubtedly the ultimate power under Section 11 (1) of the Act to recover the illegal payment or the loss suffered by the public body from the persons concerned. In the facts of this case, since the enquiry has been pending for a very long time, we direct the Municipal Corporation to place the concerned report before the Standing Committee and obtain its reaction within four weeks and forward the same to the concerned

Divisional Commissioner. The Divisional Commissioner will thereafter proceed to take necessary steps under Section 11 (1) of the Act to fix the responsibility and to take further actions under Section 12 of the Act. All authorities concerned are expected to act expeditiously, complete the procedure and take necessary action by the end of December, 2007. Petition is accordingly disposed of.

ACTING CHIEF JUSTICE

V.M. KANADE, J.